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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 3RD DAY OF APRIL, 1998

BEFORE

THE HON'BLE MR.JUSTICE V.K.SINGHAL

WRIT PETITION NUMBER: 11520/1991

BETWEEN:

M/S.PSI Data system ltd.,
38-a II Phase,
Peenya Indl Area
Bangalore. 58.
rep by its Co Secretary,
R.Vittal.

6/14
PETITIONER

(By Sri.S.N.Murthy for T.M.Venkata Reddy)

AND:

1. ASST. Collector of Customs
Customs Divn
41, Millers Road,
Vasanthnagar,
Bangalore-52.
2. The Dy Commr.,
Bangalore District.
Bangalore.
3. The Tahsildar,
Zone IV
Bangalore District.

RESPONDENTS

This petition is filed praying to quash
Annexure-A dtd.28-2-1991 and Annexure-F dtd.10-5-1991.

This petition coming on for hearing this day,
the Court made the following:-

ORDER
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O R D E R

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The petitioner is aggrieved by the order dtd 15-3-1991 by which the request for relinquishing the title of imported goods in accordance with the provisions of Section 23(2) of the Customs Act was denied. Learned counsel for the petitioner submitted that Section 23(2) has contemplated that the owner of any imported goods may at any time before an order for clearance of goods for Home consumption is made ~~can~~ relinquish xxx his title to the goods and thereupon he shall not be liable to pay the duty thereon. The order of home consumption has to be made under Section 68. Reliance is placed on the decision given in the case of Bombay High Court MAFATLAL FINE SPG & MFG.CO. LTD. Vs. UNION OF INDIA (1987 (27) E.L.T. 19 (bom)).

2. I have considered over the matter.

The petitioner in the present case imported ~~xxxx~~ the goods from outside the country, in March, 1989. The imported goods were bonded and stored in the Central Warehousing Corporation. Permission for keeping the goods in the bonded warehouse was up to 15-3-1990. The request of the petitioner for relinquishing the title was rejected on the ground that at the time of warehousing these goods under Section 59 of the Act, a bond on a stamp paper was executed

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undertaking to follow the provisions of warehousing. While the application for extension was moved, the time was ~~extended~~ with the clear undertaking given by the petitioner that he will not relinquish his title to the goods, under section 23(2) and that he will clear all these goods on payment of customs duty, interest and other dues. The extended time ~~has~~ also expired. The duty of Rs.13,81,444/- was levied and detention notice under Section 142(1) was served. But the same was withdrawn later on the plea of the petitioner that the goods would be re-exported. The petitioner thereafter relinquished the title on 11-3-1991. In the case referred to above, it was observed that where any warehoused goods have not been removed from the warehouse on the expiry of the period fixed then the proper officer may demand the full amount of duty chargeable along with interest etc. It is also observed that the time can be granted but the recovery is not permissible and the order has to be passed for clearance of goods for ^{home} consumption. It may be observed that the importer is liable to duty at the time of landing of the goods and it is deferred if the goods are kept in the warehouse for a particular period. It is that duty which is payable at the time of clearance from the warehouse. If the time for keeping the goods in warehouse has already been lapsed then it will be presumed that the importer is no longer interested in keeping the goods in the warehouse and the

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respondents are within their jurisdiction to determine the duty. After the duty is determined, it is not possible to relinquish the title to the goods. Thereafter if the order of duty is found illegal in any manner, it could be challenged by way of appeal. The order of determining the duty is not in dispute. The prayer in this petition is only for relinquishment of ^{the} goods. Since the time for keeping the goods in the warehouse expired and the duty has already been determined, the petitioner could not have relinquished his title to the goods.

Petition having no force is accordingly dismissed.



Sd/-
JUDGE

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